

Examiner-Initiated Interview Summary	Application No. 10/603,525	Applicant(s) MILLER, STEWART C.	
	Examiner Francis T. Palo	Art Unit 3644	

All Participants:

(1) Francis T. Palo.

(2) Ms. Sarah M. Jabbari.

Status of Application: Pending

(3) _____

(4) _____

Date of Interview: 30 December 2004

Time: morning

Type of Interview:

- ☒ Telephonic
☐ Video Conference
☐ Personal (Copy given to: ☐ Applicant ☐ Applicant's representative)

Exhibit Shown or Demonstrated: ☐ Yes ☒ No

If Yes, provide a brief description:

Part I.

Rejection(s) discussed:

Provisional Obvious Type Double Patenting over allowed related US 10/180,690

Claims discussed:

1-63 of instant CIP

Prior art documents discussed:

JP 4190714A and US 4,594,809

Part II.

SUBSTANCE OF INTERVIEW DESCRIBING THE GENERAL NATURE OF WHAT WAS DISCUSSED:

See Continuation Sheet

Part III.

- ☒ It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview directly resulted in the allowance of the application. The examiner will provide a written summary of the substance of the interview in the Notice of Allowability.
☐ It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview did not result in resolution of all issues. A brief summary by the examiner appears in Part II above.

(Examiner/SPE Signature)

(Applicant/Applicant's Representative Signature – if appropriate)

Continuation of Substance of Interview including description of the general nature of what was discussed: Applicant's Representative was contacted to discuss the disposition of the instant claims directed to the allowed subject matter of the allowed '690 parent application, and that a Provisional Obviousness Type Double Patenting rejection was anticipated in both the allowed application and the instant application. The Applicant's Representative was given the opportunity to provide a Terminal Disclaimer with the issue fee of the allowed '690 application, and/or redress the claims of the instant application to include one of the remaining species of the allowed '690 application..

Francis T. Palo
EXAMINER

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Name: Examiner Francis T. Palo, U.S. Patent and Trademark Office

FAX Telephone No.: (703) 872-9306

From: Sarah M. Jabbari

Date: January 6, 2005

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Appl. No. : 10/603,525 Confirmation No. 4113
Applicant : Stewart C. Miller
Filed : June 25, 2003
TC/A.U. : 3643
Examiner : Francis T. Palo

Docket No. : SMLR-002-01
Customer No. : 27268

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRELIMINARY AMENDMENT AND INTERVIEW SUMMARY

Sir:

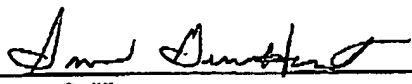
In response to an interview with Examiner Palo on December 30, 2004, Applicant submits the following preliminary amendment and interview summary. Applicant respectfully requests entry of this amendment prior to the calculation of fees and the meritorious examination of the application.

Amendments to the Claims are reflected in the listing of claims which begins on page 1 of this paper.

Remarks/Arguments begin on page 6 of this paper.

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office (Fax No. (703)872-9306) on January 6, 2005.

Typed or printed name of person signing this certificate


Susan G. Hurst

Appl. No. 10/603,525
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REMARKS/ARGUMENTS

1. Interview with the Examiner.

In an interview with Examiner Palo on December 30, 2004, Examiner Palo indicated to Applicant's Representative (Kevin Erdman) that the claims of the present application, as originally filed, presented double patent concerns relevant to the pending and allowed parent application Ser. No. 10/180,690. Applicant's Representative and Examiner Palo agreed that Applicant would submit a proposed amendment canceling all of the claims of the present application and presenting new claims that avoid the double patenting concerns. A proposed amendment was submitted on January 6, 2005. In a follow up interview with Examiner Palo on January 6, 2005, Examiner Palo indicated that the proposed amended claims avoided a double patenting issue.

2. Amendments to the Claims.

Accordingly, Applicant hereby cancels all of original claims 1-63 and requests entry of new claims 64-78. Claims 64-78 are drawn to a process for cultivating *Morchella sclerotia*, rather than *Morchella ascocarp*. Each of claims 64-78 require the step of harvesting the sclerotia by removing the sclerotia prior to the formation of an ascocarp. This step precludes inducing the formation of an ascocarp, which is required in the allowed claims of the parent application and, thus, the practice of the present invention would not conflict with the claims of the parent application. Accordingly, the newly presented claims do not present a double patenting issue. These new claims are fully supported in the present application in paragraph [0040].


CONCLUSION

Applicant respectfully request that the Examiner maintain the Notice of Allowance in the parent case and approve the proposed amendments made herein in the present application.

Applicant believes that no fees are due in connection with this submission, however, if any fees are necessary, please charge Deposit Account No. 02-0390, Baker & Daniels.

Respectfully Submitted,

By:


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Amendments to the Claims:

The following listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims:

Claims 1-63 (Cancelled)

64. (New) A process for cultivating *Morchella sclerotia* using mycelium and a tree seedling, the process comprising the steps of:

inoculating a root system of the tree seedling with the mycelium to produce an inoculated tree seedling;

distressing a shoot system of the inoculated tree seedling, said step of distressing the shoot system causing at least a portion of the root system to dye and stimulating the formation of sclerotia from the mycelium in the dying root system; and

harvesting the sclerotia by removing the sclerotia prior to the formation of an ascocarp.

65. (New) The process of claim 64 further comprising the step of cultivating the mycelium by the steps of:

introducing spores onto a culture medium; and

incubating the spores until the spores produce the mycelium.

66. (New) The process of claim 65 wherein said step of inoculating the root system with the mycelium comprises:

introducing the root system of the tree seedling into the culture medium; and

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incubating the culture medium until the mycelium has inoculated the root system.

67. (New) The process of claim 65 wherein said step of inoculating the root system with the mycelium comprises:

- adding a planting medium on top of the culture medium;
- placing at least one tree seed on top of the planting medium;
- germinating the tree seed into the tree seedling; and
- growing the tree seedling until the root system is inoculated with the mycelium.

68. (New) The process of claim 64 further comprising the step of cultivating the mycelium by the steps of:

- introducing a plurality of spores into a container of culture medium;
- placing the container of culture medium in a planting medium;
- covering the culture medium and the planting medium with a germinating medium; and
- incubating the spores until the spores produce the mycelium.

69. (New) The process of claim 68 wherein said step of inoculating the root system with the mycelium comprises:

- placing at least one tree seed in the germinating medium;
- germinating the tree seed into the tree seedling; and
- growing the tree seedling until the root system is inoculated with the mycelium.

70. (New) The process of claim 64 wherein said step of inoculating the root system comprises:

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introducing spores onto a culture medium;
introducing a tree seed into a planting medium;
simultaneously incubating the spores and the tree seed until the spores produce the
mycelium and the tree seed germinates into the tree seedling;
placing the tree seedling on the culture medium; and
incubating the culture medium until the mycelium has inoculated the root system.

71. (New) The process of claim 64 wherein said step of inoculating the root system with the mycelium comprises injecting the mycelium into the tree seedling.

72. (New) The process of claim 64 wherein said step of inoculating the root system with the mycelium comprises grafting a portion of an inoculated tree seedling onto the tree seedling.

73. (New) The process of claim 64 wherein said step of inoculating the root system with the mycelium comprises growing the tree seedling in close proximity to an inoculated tree.

74. (New) The process of claim 64 further comprising the step of growing the inoculated tree seedling for at least one growing season.

75. (New) The process of claim 64 wherein said step of distressing a shoot system comprises severing the shoot system from the root system.

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76. (New) The process of claim 64 wherein said step of distressing a shoot system comprises defoliating the tree.

77. (New) The process of claim 64 wherein the shoot system of the tree seedling comprises leaves and said step of distressing a shoot system comprises smothering the leaves.

78. (New) The process of claim 64 where in distressing the shoot system of the tree seedling comprises allowing sclerotia to develop for at least one growing season after distressing the shoot system.